

UNCLASSIFIED//FOR PUBLIC RELEASE
MILITARY COMMISSIONS TRIAL JUDICIARY
GUANTANAMO BAY, CUBA

UNITED STATES OF AMERICA v. ABD AL HADI AL-IRAQI	AE 051E RULING Defense Motion to Continue the 21 September 2015 Hearing 17 September 2015
--	--

1. In AE 051A, the Defense requested the Commission continue the 21-23 September 2015 hearing “until a later date so that the defense may attempt to re-establish and preserve the attorney-client relationship with Mr. Hadi al Iraqi.” In AE 051C, the Commission issued a compressed briefing schedule for the Prosecution to respond and for the Defense to reply. The Prosecution response requested the Commission deny the Defense’s request.¹ (AE 051B). The Defense reply stated, “At this time the defense withdraws our request to continue the 21 September hearings. Based on information received after the filing of AE051A we agree with the Government that it is prudent to move forward on 21 September 2015 to place the resolution of the issue of our representation on the record.” (AE 051D at 1).

¹ “The Government respectfully requests that the Commission deny the Defense Motion for a Continuance. The Government further respectfully requests that the Commission specifically inquire of both the Accused and Defense Counsel what steps, if any, have been taken to explore retaining a civilian counsel, as originally mentioned by the Accused in June of 2014, and again mentioned by the Accused in September of 2014. The Government further respectfully requests that the Commission order the Chief Defense Counsel (“CDC”) or a supervisory counsel the CDC designates to be present for the currently-scheduled September hearing for the purpose of providing advice to the Accused, if he desires it, as to the quality of representation by his currently detailed counsel for the purpose of informing the Accused’s decision on counsel. The Government further respectfully requests that the Commission require the Accused to make a firm election, on the record, on whether or not to restore LtCol Thomas F. Jasper, Jr., USMC and restore his counsel or refuses to make an election, the Government respectfully requests the Commission find good cause to excuse both counsel from further action in the case, order the CDC to execute such excusal, and request the CDC to assign new military counsel and assist the Accused in obtaining civilian counsel, should the Accused desire it. The Government further respectfully requests the Commission again ask the Accused on the record whether he intends to elect his right to be represented by civilian counsel at no expense to the United States. Finally, should the Commission deny the Defense Motion for a Continuance, the Government respectfully requests further guidance on which issues the Commission anticipates addressing during the September hearing.” (AE 051B at 1-2).

2. With the filing of AE 051D, the Defense request to continue the 21-23 September 2015 hearing is **MOOT**. During the 21-23 September hearings the parties will be prepared to discuss on the record, the averments made in AE 049J and AE 051A. Specifically, the Defense will be prepared to provide evidence on the status and nature of the civilian counsel the Defense is hiring “to independently counsel Mr. Hadi al Iraqi regarding his rights to both representation by military counsel and if Mr. Hadi al Iraqi so chooses, to represent him along with military counsel throughout the trial.” (AE 051A at 2). The Commission will conduct further inquiry with the Accused in regards to his rights to counsel and the status of his currently detailed defense counsel. Additionally, the parties will be prepared to conduct oral argument on the motions listed in AE 051, subject to the outcome of the inquiry with the Accused concerning his rights to counsel and the status of his currently detailed defense counsel.

So **ORDERED** this 17th day of September, 2015.

//s//
J. K. WAITS
CAPT, JAGC, USN
Military Judge